

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

| | | |
|------------------------------|---|----------------------|
| VAN A. BROWN, et al., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | NO. 3:10-0719 |
| |) | Judge Trauger/Bryant |
| REALTY MORTGAGE CORPORATION, |) | |
| et al., |) | |
| |) | |
| Defendants. |) | |

TO: The Honorable Aleta A. Trauger

REPORT AND RECOMMENDATION

The complaint in this case was filed on July 29, 2010 (Docket Entry No. 1). The case was thereafter referred to the undersigned Magistrate Judge for case management and report and recommendation on any dispositive motion (Docket Entry No. 4).

On November 12, 2010, the undersigned Magistrate Judge entered an order requiring plaintiffs to show cause on or before November 29, 2010, why this case should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m) for failure to obtain service of process on any defendant (Docket Entry No. 11). Despite this order, plaintiffs have filed no response to the order nor have they obtained service of process on any defendant. The complaint was filed more than 120 days ago, and the undersigned Magistrate Judge, therefore, finds that this case should be dismissed without prejudice pursuant to Rule 4(m), Federal Rules of Civil Procedure.

RECOMMENDATION

For the reasons stated above, the undersigned Magistrate Judge **RECOMMENDS** that the complaint be **DISMISSED** without prejudice due to plaintiffs' failure to obtain service of process on defendants.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days from service of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have fourteen (14) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within fourteen (14) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986).

ENTERED this 28th day of February, 2011.

s/ John S. Bryant
JOHN S. BRYANT
United States Magistrate Judge